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In re Application of :  
GYGAX :  
Application No.: 10/554,309 : DECISION  
PCT No.: PCT/CH2004/000224 :  
Int. Filing Date: 13 April 2004 :  
Priority Date: 22 April 2003 :  
Attorney Docket No.: 30887/04002 :  
For: LIGHT PLANE IN THE ULTRALIGHT :  
CATEGORY AND SPORT PLANE CATEGORY :

This decision is in response to applicants' "PETITION TO WITHDRAW EXAMINER'S HOLDING OF ABANDONMENT" filed in the United States Patent and Trademark Office (USPTO) on 24 June 2008, which has properly been treated as a petition under 37 CFR 1.181. No petition fee is required.

**BACKGROUND**

On 13 April 2004, applicants filed international application PCT/CH2004/000224, which designated the United States and claimed a priority date of 22 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 October 2005.

On 21 October 2005, applicants filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 25 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 28 May 2008, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of

America for failure to respond the NOTIFICATION OF MISSING REQUIREMENTS mailed 25 July 2006.

On 24 June 2008, applicants filed the instant submission, which has properly been treated as a petition under 37 CFR 1.181. The petition was accompanied by, *inter alia*, a copy of a declaration of inventors and a USPTO date-stamped postcard receipt.

### DISCUSSION

Applicants have provided sufficient evidence to establish that on 28 August 2006 applicants filed a declaration of inventors. The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 28 August 2006 and which itemizes a "Declaration and Power of Attorney - 2 pgs." and identifies the above-captioned application number and attorney docket number. Further, practitioner states that the copy of the declaration filed 24 June 2008 is a copy of the declaration originally filed 28 August 2006. Therefore, in view of the date-stamped receipt and practitioner's statement, the declaration received on 24 June 2008 may properly be accepted as originally received in the USPTO on 28 August 2006. The NOTIFICATION OF ABANDONMENT mailed 28 May 2008 is hereby vacated.

The declaration filed 28 August 2006 is in compliance with 37 CFR 1.497(a)-(b).

### CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

The NOTIFICATION OF ABANDONMENT mailed 28 May 2008 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

/Daniel Stemmer/

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